

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT WINCHESTER

BIRDA TROLLINGER, ROBERT)
MARTINEZ, TABETHA EDDINGS, and)
DORIS JEWELL, individually and on)
behalf of all other similarly situated,)
)
Plaintiffs,)
v.) No. 4:02-cv-023
TYSON FOODS, INC.; JOHN TYSON;)
ARCHIBALD SCHAFFER III;)
RICHARD BOND; KENNETH KIMBRO;)
GREG LEE; KAREN PERCIVAL;)
AHRAZUE WILT; TIM McCOY,)
)
Defendants.)

MEMORANDUM AND ORDER

This case is before the Court on the motion [Doc. 144-1] of defendants for sanctions pursuant to Fed. R. Civ P. 11. Defendants assert that plaintiffs have violated Rule 11 by making allegations in the second amended complaint which have no factual basis. Rule 11 provides in part that when an attorney submits a pleading, that attorney certifies that the allegations and other factual contentions have factual support, or that such factual support is likely to be forthcoming after a reasonable opportunity for further investigation of discovery. Fed. R. Civ. P. 11(b)(3).

Specifically, the defendants say there is no evidence to support the plaintiffs' allegation that Tyson Foods, Inc. was associating in a RICO enterprise with certain civil rights and immigration rights groups. In response, the plaintiffs say that there is such evidence.

The Court is reluctant at this juncture to make what amounts to a primarily factual

determination. There will be plenty of opportunity for such a determination if this Court finds itself dealing with a Fed. R. Civ. P. 56 motion for summary judgment, or at a trial. If, in the crucible of subsequent fact finding, it appears to the Court that Rule 11 sanctions are warranted, a determination may be made at that time. For now, however, the defendants' motion for sanctions [Doc. 144-1] is respectfully **DENIED**.

SO ORDERED.

ENTER this *25th day of October, 2005*.

/s/ *R. Allan Edgar*

R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE